

1 James P. Watson, (SBN 46127)
2 Bruce K. Leigh (SBN 129753)
3 STANTON, KAY & WATSON, LLP
4 101 New Montgomery, Fifth Floor
5 San Francisco, CA 94105
6 Telephone: (415) 512-3501
7 Facsimile: (415) 512-3515

8 Attorneys for Plaintiffs

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 EDWARD T. BERGO as CHAIRMAN and KARL
12 BIK as CO-CHAIRMAN of the BOARD OF
13 TRUSTEES FOR THE CEMENT MASONS
14 HEALTH AND WELFARE TRUST FUND FOR
15 NORTHERN CALIFORNIA; CEMENT MASONS
16 VACATION/HOLIDAY TRUST FUND FOR
17 NORTHERN CALIFORNIA; CEMENT MASONS
18 PENSION TRUST FUND FOR NORTHERN
19 CALIFORNIA; and CEMENT MASONS
20 APPRENTICESHIP AND TRAINING TRUST
21 FUND FOR NORTHERN CALIFORNIA,

22 Plaintiffs,

23 v.

24 R. J. HATLER CONSTRUCTION, INC., a
25 California corporation; GERALD RAYMOND
26 HATLER, an Individual; RANDY JAMES
27 HATLER, an Individual; MARGARET E.
28 ALVAREZ, an Individual; and DOES ONE through
FIFTY, inclusive,

Defendants.

Case No.: C-04-3984 TEH

**DECLARATION OF BRUCE K. LEIGH
AND REQUEST FOR LEAVE TO FILE
SUPPLEMENTARY DECLARATION IN
SUPPORT OF MOTION FOR DEFAULT
JUDGMENT**

DATE: Monday, June 20, 2005
TIME: 10:00 a.m.
JUDGE: Senior Judge Thelton Henderson
CTRM.: Courtroom 12, 19th Floor

I, BRUCE K. LEIGH, declare as follows:

1. I am an associate of the law firm of Stanton, Kay & Watson, LLP, counsel to plaintiffs
EDWARD T. BERGO as CHAIRMAN and KARL BIK as CO-CHAIRMAN of the BOARD OF
TRUSTEES FOR THE CEMENT MASONS TRUST FUNDS, listed in the caption above.

2. I have personal knowledge of the following and, if called upon to testify, I would be
competent to do so.

1 3. On May 31, 2005, the Court issued an order that plaintiffs file a supplementary declaration
2 addressing questions regarding the way they calculated the flat fee liquidated damages and interest
3 shown in attachments to the declaration of Angela Price in support of the motion for default
4 judgment.

5 4. I received the court's order on May 31 and immediately faxed a copy to the collections
6 office for the trust funds, advising that we would need to file the declarations no later than Tuesday,
7 June 7.

8 5. On Friday, June 3 I reminded the trust funds collections office that we would be needing
9 an explanation to draft into a declaration. On Monday and Tuesday the 6th and 7th I further reminded
10 them and discussed the matter, and I prepared a draft supplementary declaration. I was advised that
11 they were swamped with other matters and wanted to review the draft and make some changes. Thus,
12 they were unable to finish the declaration on time. Nor were they able to do so on Wednesday, the
13 8th.

14 6. Now, on Thursday, the 9th, the collections office has finished preparing a supplementary
15 declaration of Angela Price responding to the court's order, and I am submitting it to the court with a
16 request that the court allow it to be filed despite failing to meet the court's deadline.

17 7. This is a default case. The hearing on the default judgment is calendared for June 20. A
18 copy of the supplementary declaration and of this pleading is being served on defendants. The
19 supplementary declaration does not increase or otherwise change the amount demanded by plaintiffs
20 in this action, and defendants should not be prejudiced by the late filing of the supplementary
21 declaration. They will still have notice and opportunity to respond, if they wish.

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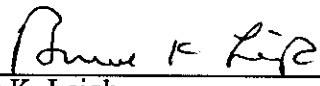
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1 8. Thus, we ask the court to grant leave to allow the filing of the supplementary declaration
2 submitted herewith.

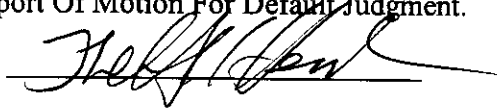
3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct and that this declaration was executed on June 9, 2005, at San Francisco,
5 California.

6 
7 Bruce K. Leigh
8 Attorney for Plaintiffs

9 ~~PROPOSED~~ ORDER GRANTING LEAVE TO FILE SUPPLEMENTARY
10 DECLARATION OF ANGELA PRICE

11 For the reasons stated hereinabove, finding that the late filing is excusable and will
12 prejudice defendants, the Court hereby grants leave to allow the late filing of plaintiffs'
13 Supplementary Declaration Of Angela Price In Support Of Motion For Default Judgment.

14 Date: 6/9/05

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16 Senior Judge Thelton Henderson

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